

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED
JAN 24 2019
Clerk, U.S. Courts
District Of Montana
Missoula Division

EDWIN (EDDIE) RALPH MURPHY,

Plaintiff,

vs.

CITY OF MISSOULA, COUNTY OF
MISSOULA, and STATE OF
MONTANA,

Defendants.

CR 18-190-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Findings and Recommendation (Doc. 8) on December 20, 2018, recommending Plaintiff Edwin (Eddie) Ralph Murphy's ("Murphy") complaint be dismissed because it failed to state a claim for which relief could be granted as outlined in Judge Lynch's November 21, 2018 Order (Doc. 4 at 4); and dismissal was proper pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Murphy failed to comply with the Judge Lynch's order to file an amended complaint. Murphy did not object to the Findings and Recommendation; therefore, he has waived the right to de novo review. 28 U.S.C. § 636(b)(1)(c). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

Judge Lynch duly cautioned in his November 21, 2018 order that Murphy’s failure to amend his complaint would result in dismissal for failure to state a claim for which relief could be granted and, additionally, that failure to comply with the Court’s order would result in dismissal of the action with prejudice under the authority of Rule 41(b) of the Federal Rules of Civil Procedure. (Doc. 4 at 7.) Murphy failed to file an amended complaint pursuant to the guidelines provided in Judge Lynch’s order on or before the deadline set in that order, December 19, 2018. (Doc. 4 at 6.)

IT IS ORDERED that Judge Lynch’s Findings and Recommendation (Doc. 8) are ADOPTED IN FULL. This action is DISMISSED.

DATED this 24th day of January, 2019.



Dana L. Christensen, Chief Judge
United States District Court